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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/857,315	10/16/2001	Francisco Lanzuela De Alvaro	JMYT-243US	3212

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EXAMINER

COOKE, COLLEEN P

ART UNIT	PAPER NUMBER
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1725

DATE MAILED: 09/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n No.

09/857,315

Applicant(s)

DE ALVARO, FRANCISCO
LANZUELA

Examin r

Colleen P Cooke

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-- The MAILING DATE of this communication appears n the cover sheet with the corresp ndence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Pri rity under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Response to Arguments

Applicant's arguments with respect to claims 1-10 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 8, 11, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Goodman et al. (EP 0878233 A2).

Regarding claims 1, 4, and 5, Goodman et al. teaches a method of coating a substrate material with a synthetic zeolite including treating the surface of the substrate with a polyelectrolyte prior to formation of the zeolite (Column 2, lines 3-6) and that the formation of the zeolite is by known coating procedures such as a precursor solution (Column 2, lines 46-49) and that the solvent used is water (Columns 2-3, lines 58-1).

Regarding claim 2, the polyelectrolyte is polyacrylamide (Column 2, lines 37-38).

Regarding claims 3 and 8, the support is metal or ceramic and may be a sheet (i.e. plate) or other such form (Column 2, lines 15-27). Further regarding claim 8, it appears that the instantly claimed product by process is the same as that which is claimed (a metal oxide coated plate or monolith). When the examiner has found a substantially similar product as in the applied prior art, the burden of proof is shifted to the applicant to establish that their product is

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patentably distinct and not the examiner to show the same process as making. *In re Brown*. 173 USPQ 685 and *In re Fessman*, 180 USPQ 324.

Regarding claims 11 and 12, the polyelectrolyte may be applied as an aqueous solution (Column 2, lines 37-40) and would inherently dry during processing (Column 2, lines 46-52) and thus form a continuous surface polymer layer.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-7 and 9-10 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Goodman et al. (EP 0878233 A2). Regarding claims 6 and 7, Goodman et al. teaches rather broadly that other materials, including palladium, may be used (Column 2, lines 24-27).

Regarding claims 9-10, it appears that the instantly claimed product by process is the same as that which is claimed (a metal oxide coated plate or monolith). When the examiner has found a substantially similar product as in the applied prior art, the burden of proof is shifted to the applicant to establish that their product is patentably distinct and not the examiner to show the same process as making. *In re Brown*. 173 USPQ 685 and *In re Fessman*, 180 USPQ 324.

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Claims 6-7 and 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goodman et al. (EP 0878233 A2).

Goodman et al. teaches a method of coating a substrate material with a synthetic zeolite as described with respect to claim 1 above. Goodman et al. teaches generally that other materials, including palladium, ceramic materials in general of metal oxides may be used (Column 2, lines 24-27), but does not explicitly teach using the metal oxides or catalytic components as claimed.

Stein teaches a rather similar process of preparing an aqueous coating slurry including metal oxide particles and a polyelectrolyte and applying this coating to a surface of a substrate (Column 4, lines 2-8, 25-27). Regarding claims 6 and 7, Stein et al. teaches including elements of the seventh and eighth groups (Column 3, lines 29-33).

Regarding claims 9-10, it appears that the instantly claimed product by process is the same as that which is claimed (a metal oxide coated plate or monolith). When the examiner has found a substantially similar product as in the applied prior art, the burden of proof is shifted to the applicant to establish that their product is patentably distinct and not the examiner to show the same process as making. *In re Brown*, 173 USPQ 685 and *In re Fessman*, 180 USPQ 324.

Goodman et al. and Stein et al. are analogous art because they are from the same field of endeavor, which is preparation of zeolite catalysts. It would have been obvious to modify the process of Goodman et al. by including a catalytic component because doing so improves the effectiveness of the catalyst product and also because Goodman et al. already contemplates the presence of such material in the final product.

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Conclusion

Any inquiry concerning this or earlier communications from the examiner should be directed to Colleen Cooke, whose telephone number is 703-305-1136. She can normally be reached Monday-Thursday from 7:15-5:45pm.

If attempts to reach the examiner by telephone are unsuccessful, her supervisor, Thomas Dunn, can be reached at 703-308-3318. The official fax number for the organization where this application or proceeding is assigned is 703-305-6078. The unofficial fax number for this examiner is 703-746-3048.

Any inquiry of a general nature relating to the status of this application or proceeding should be directed to the receptionist, whose telephone number is 703-308-0661.

CPC 8/26/2003


M. ALEXANDRA ELVE
PRIMARY EXAMINER